

CITY OF GLOUCESTER

PLANNING BOARD

3 Pond Road, Gloucester, MA 01930

Tel 978-281-9781

Fax 978-281-9779

Date: December 15, 2008

To: City Clerk

From: Planning Board

Re: Fort Rezoning Proposal - Report and Recommendation

Please accept this report, minutes, and attached draft Fort Overlay District zoning ordinance as the final report of the Planning Board in review of the proposed amendment to the zoning ordinance as forwarded to the Planning Board regarding the rezoning of that portion of the Marine Industrial (MI) district known as “the Fort” (See Figure 1).

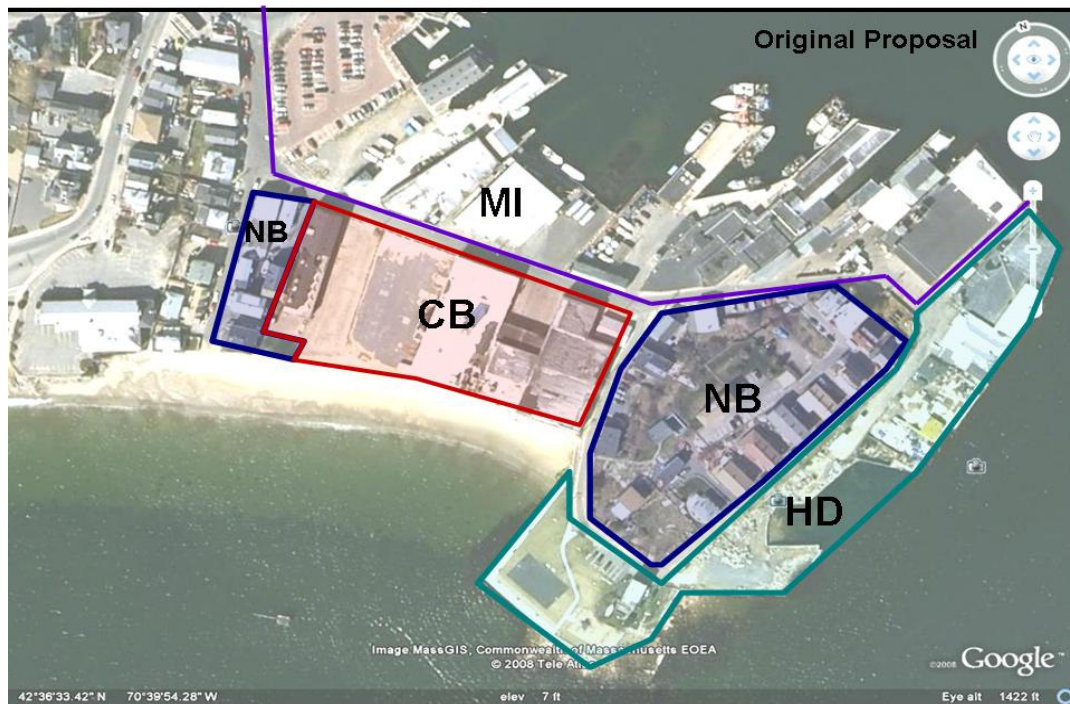


Figure 1

In accordance with Section 1.5 of the Gloucester Zoning Ordinance, the Planning Board held public hearings on September 15th, September 22nd, and November 10th of 2008. The Planning Board subsequently discussed the proposed amendment at its meetings of November 24th and December 15th of 2008. The Board attempted to hold a meeting on November 14th, but lacking a quorum took no official action; notes from several members were forwarded to the full Board on November 24th. The minutes of each of the referenced hearings and meetings is attached.

The proposal brought forward by the Community Development Department and initiated by the City Council as a zoning amendment, examines a small subset of the Marine Industrial District. The study area contains 38 lots and occupies approximately 9.25 acres of land. The rezoning proposal submitted to the City Council was prepared with the assistance of Norris and Norris Associates (a waterfront planning consultant). In the development of the proposal existing uses, access, and topography among other attributes were examined, and resultant redistricting was proposed. This 9.25 acre area was broken down into four (4) sub-areas and four districts were proposed including: Two Neighborhood Business (NB) districts (Fort Square and Beach Court), a Central Business (CB) district (the Flats) and a newly conceived Harbor District (HD) (the Apron). This proposal was designed to bring residential uses in the proposed NB districts into conformity, and provide flexibility and expanded uses to areas proposed to be rezoned from MI to CB and HD, respectively.

Over the course of the three public hearings more than fifty (50) people submitted oral or written testimony. Issues were raised relative to each of the proposed new zoning district areas. The following is a partial summary of some of the opinions raised by members of the public and the Board:

- The NB district introduces the possibility of commercial uses that are not feasible nor desired;
- The NB districts would create nonconformity of some existing commercial uses, and multifamily uses would still need to be permitted, therefore no relief is afforded;
- The CB district creates nonconformity for existing MI uses and introduces the potential of incompatible uses with existing business and residences by permitting hotel and additional residential use.
- The HD does not provide any flexibility as there are limited viable commercial uses for these properties.
- Many concerns were also raised regarding existing infrastructure deficiencies and the inability to accommodate expanded or new uses.

The Fort Community Association (FCA) was also formed representing various stakeholders, although its membership was not confirmed. Its position was both presented during the hearings and submitted to the Planning Board and City Council, reiterating the concerns of residents and business owners alike surrounding new uses that would be permitted by the proposal. In response to the issues raised by the FCA, the Planning Director suggested that the inclusion of certain uses such as additional residential and hotel and retail uses appear to be the primary concerns in opposition to the proposal. It was also suggested at the final hearing on November 10th, that many of these concerns may be addressed through the enacting of an Overlay District.

The Planning Director agreed that the Overlay District approach, which has already been utilized in the Gloucester Zoning Ordinance, could both target uses and allows the careful consideration of new uses, while providing protection for existing Marine Industrial uses. The Planning Director drafted a model overlay district ordinance coincident with the area bounded by the original rezoning proposal for the consideration of the Board (see Figure 2).

The model further identifies a residential allowance. The Board suggests that it may be appropriate for the City Council to consider a limited residential component in the “Expanded Mixed Use Area” presented originally as new CB and HD districts. The guiding principles of the Overlay District define, protect and make specific the circumstances of such allowance. There are several means of limited or regulating this allowance, the approach utilized in the draft overlay is that of a size limitation of 25% of the floor area of a project.

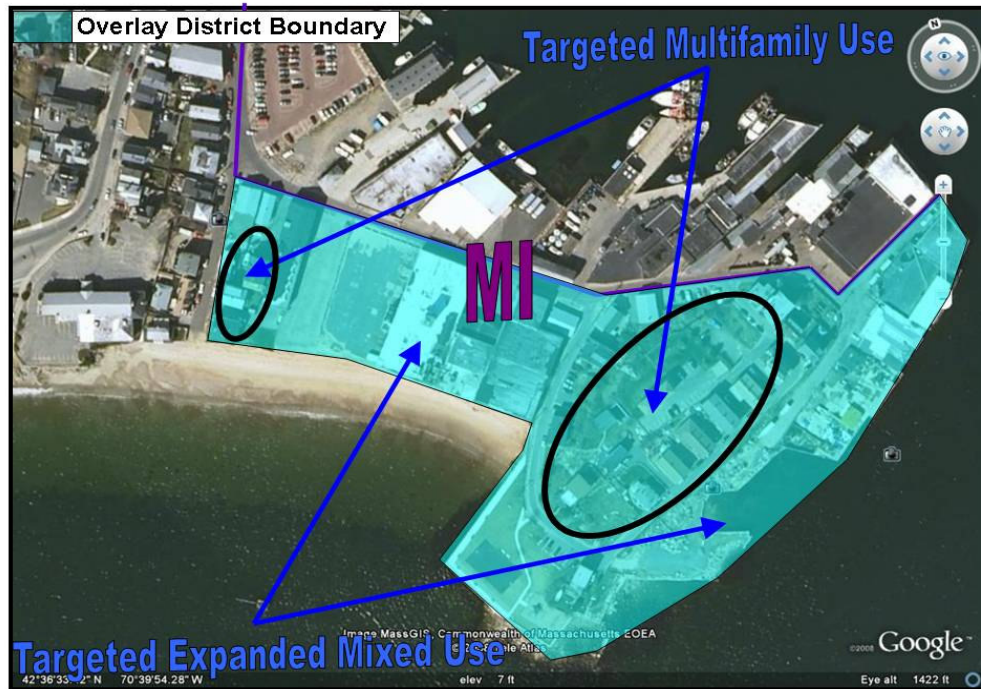


Figure 2

The Board finds the resultant draft Overlay District Ordinance to be consistent with the original proposal by targeting the Fort Square and Beach Court areas for multifamily use, akin to the rezoning to Neighborhood Business. As well, the allowance of hotel and mixed use projects with potential increased height in the Flats and Apron areas by special permit is consistent with the intent of rezoning areas from MI to CB and HD. The draft Overlay District would permit hotel, mixed use projects, and commercial schools by special City Council permit. All uses allowed by-right and by special permit in the Marine Industrial district would also continue to be allowed and permitted. The Board also suggests that the Overlay District approach to zoning in the Fort area allows many of the concerns raised by the public to be addressed by requiring that the new uses by special permit comply with additional criteria as outlined in the draft Overlay District ordinance. The Board recommends that the Overlay District will permit new uses that must address the context in which they are introduced, and protect existing residential and business uses.

For the reasons stated above the Planning Board recommends the enactment of the attached Fort Overlay District.

5.25 FORT OVERLAY DISTRICT

5.25.1 PURPOSE AND INTENT.

The Overlay District (OD) is hereby established to allow more flexible use of a portion of the Marine Industrial District, without compromising the existing working waterfront and the visual continuity of the area. The OD is intended to provide a transition between the inner harbor and downtown. This area is defined by an existing mix of industrial, commercial and residential uses. The intent is to provide for the consideration and allowance of new uses in scale and context, without displacing or negatively impacting existing uses. To achieve this end new uses will only be permitted by Special Permit (CCS) issued by the City Council.

5.25.2 ESTABLISHMENT AND DEFINITION OF DISTRICT.

The OD is hereby established as an overlay district as shown on the Zoning Map of the City of Gloucester. Within the OD, the provisions of the underlying Marine Industrial District shall remain in full force and effect, except where a Special Permit is issued and where the provisions of the OD shall apply to the extent different than those of the Marine Industrial District.

5.25.3 PERMITTED AND SPECIAL PERMITTED USES.

(a) In addition to the uses permitted in the Marine Industrial District in Section 2.3 Use Tables, the following uses may be permitted in the OD by Special Permit (CCS) by the City Council.

- (1) Multifamily: The addition of dwelling units within multifamily residential structures in existence prior to the adoption of the OD, or new multifamily dwellings on lots with a minimum lot area of not less than 5,000 square feet in the interior of Fort Square and Commercial Street, the total number of dwelling units shall not exceed six (6) (Use Table 2.3.1 #6 or #7).
- (2) Mixed Use Projects: Projects with a mix of uses consisting of commercial or industrial use on ground floors, with or without residential dwelling units with floor area not to exceed 25% of the total floor area, limited to upper floors.
- (3) Hotel without residential dwelling units (Use Table 2.3.1 # 11 or #12).
- (4) Hotel with residential dwelling units not to exceed 10% of total floor area.
- (5) Business or Commercial Schools (Use Table 2.3.2 #12).
- (6) Dining or Shops wholly within a business or commercial school or hotel (Use Table 2.3.7 #12).

(b) The OD may also allow a mix of uses allowed by special permit within the Marine Industrial District, with the exception of Protein Recovery Plants. The following dimensional requirements shall be applied to OD special permit projects:

- A multifamily special permit may only be allowed on lots within existing multifamily residential dwellings or on lots with a minimum lot area of 5,000 square feet in the interior of Fort Square and Commercial Street. City Council shall use the multifamily dimensional requirements of R-5 as a guide.
- Minimum lot area for all other OD special permitted uses shall be 20,000 square feet.
- Front yard setbacks shall be that of the MI District unless the City Council finds an increased setback is required to allow for traffic visibility at intersections or driveways, or to provide for pedestrian accommodations.

- Side yard setbacks shall be that of the MI District, except that the City Council may require building side yard setbacks up to 20 feet for projects abutting residential uses.
- Maximum Building Height is 40 feet. The City Council may permit, with conditions, a height in excess of 40 feet upon a finding that such increase is consistent with neighborhood character and will not be substantially detrimental to the neighborhood because of obstruction of views, overshadowing of other properties, or impairment of utilities, or other adverse impacts.

5.25.4 PROCEDURES FOR ISSUANCE OF SPECIAL PERMITS.

Applicants are encouraged to submit a preliminary development plan to the Community Development Department, the Building Inspector and the City Council for a pre-application review. Applications for an OD Special Permit shall be submitted and reviewed in accordance with the procedures outlined in Section 1.5.3. Applications for OD Special Permits other than multifamily shall also follow the procedure and applicable standards of Section 5.7 Major Project. An application for an OD Special Permit shall be accompanied by a site development plan with all supporting materials as outline in Section 1.5.3 (c).

5.25.5 APPROVAL.

In order to grant approval of an OD special permit the City Council shall make additional findings to the criteria of Section 1.8.3. as follows:

- (a) That the project's impact on traffic flow on surrounding roads and intersections does not reduce levels of service below the current Level of Service.
- (b) That utilities and public services are adequate to serve the needs of the proposed use(s).
- (c) That any proposed business or mixed-use project expands or enhances public access, including, but not limited to, the public access to and across Pavilion Beach.

5.25.6 LAPSE of SPECIAL PERMIT

Any special permit granted under this subsection shall lapse if construction is not commenced within two years following the date of issuance, unless good cause for failure to begin construction can be shown by the applicant to the City Council prior to the expiration of the Special Permit. Financial ability shall not be considered cause for delay.

5.25.7 SEVERABILITY

The provisions of this section are severable, and in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.